

FEB 26 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TOMAS OCHOA-RAMIREZ,

Defendant - Appellant.

No. 08-10268

D.C. No. 4:07-cr-01829-FRZ-CRP

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Arizona  
Frank R. Zapata, District Judge, Presiding

Submitted February 18, 2009<sup>\*\*</sup>

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Tomas Ochoa-Ramirez appeals from the 96-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to distribute cocaine and possession with intent to distribute cocaine, in violation of

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

21 U.S.C. §§ 841(a)(1), (b)(1)(A)(ii)(II), and 846, and conspiracy to import and importation of cocaine, in violation of 21 U.S.C. §§ 952(a), 960(a)(1), (b)(1)(B)(ii), and 963. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Ochoa-Ramirez contends that the district court erred by denying his request for a mitigating role adjustment under U.S.S.G. § 3B1.2(b). We conclude that the district court did not clearly err. *See United States v. Cantrell*, 433 F.3d 1269, 1282-83 (9th Cir. 2006); *see also United States v. Murillo*, 255 F.3d 1169, 1179 (9th Cir. 2001).

**AFFIRMED.**